

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:21CR226
)	
Plaintiff,)	JUDGE PAMELA A. BARKER
)	
v.)	
)	
DAVIS LU,)	JOINT PROPOSED JURY
)	INSTRUCTION FOR OPINION
Defendant.)	WITNESSES

The United States of America, by and through counsel, Carol M. Skutnik, Acting United States Attorney, and Brian S. Deckert and Daniel J. Riedl, Assistant United States Attorneys, and Candina S. Heath, Senior Counsel, Department of Justice Computer Crime and Intellectual Property Section; and Defendant Davis Lu, by and through his counsel, Ian N. Friedman and Eric C. Nemecek, hereby files this Joint Proposed Jury Instruction for Opinion Witnesses.

During the pretrial conference on January 27, 2025, the parties agreed with the Court's proposal to not temporally bifurcate the testimony of fact and opinion witnesses, but to instead use the following procedure:

- (1) The examining attorney shall make a clear demarcation when eliciting an opinion;
- (2) The court will provide a cautionary instruction to the jurors at the first elicitation of an opinion from a witness; and
- (3) This court will instruct the jury at the conclusion of trial with the Sixth Circuit Pattern Jury Instructions 7.03 and 7.03A.

As instructed by the Court, the parties have conferred and propose the following cautionary instruction:

"Mr. [X] has testified as a fact witness and is now being asked to offer his opinion. A witness

who has special knowledge, skill, experience, training, or education may give his opinion concerning such matters. You do not have to accept his opinion. In deciding how much weight to give an opinion, you should consider the witness' qualifications and how he reached his conclusion. I will provide further instructions at the end of the trial regarding weighing the credibility of witnesses.”

Respectfully submitted this the 21st day of February 2025.

Respectfully submitted,

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